

**IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF PENNSYLVANIA**

**ANDREW M. GABRIEL**  
*on behalf of himself and all others*  
*similarly situated,*

Plaintiff,

v.

Civil Action No. 14-0980

**GIANT EAGLE, INC.,**  
**MARCKISOTTO MARKETS INC.**  
*doing business as*  
**"EDGEWOOD GIANT EAGLE" or**  
*doing business as*  
**"GIANT EAGLE" or**  
*doing business as*  
**"GIANT EAGLE PHARMACY #24",**  
**SHAKESPEARE STREET ASSOCIATES**  
**GP LLC, doing business as**  
**"GIANT EAGLE" or**  
*doing business as*  
**"SHAKESPEARE GIANT EAGLE" or**  
*doing business as*  
**"GIANT EAGLE PHARMACY #17" and**  
**CVS PHARMACY, INC.,**  
*doing business as "CVS" or*  
*doing business as*  
**"CVS STORE #4091"**

Defendants.

**ORDER**

**AND NOW**, this 19th day of August, 2015, it is hereby **ORDERED, ADJUDGED AND DECREED** that for the reasons set forth in the accompanying memorandum opinion, defendants' motions to dismiss the Third Amended Complaint (ECF Nos. 30, 34) are **GRANTED** and plaintiff's objections to the report and recommendation (ECF No. 45) are

**OVERRULED.** It is further **ORDERED, ADJUDGED AND DECREED** that the complaint filed by Andrew M. Gabriel is dismissed with prejudice.

It is further **ORDERED** that the report and recommendation (ECF No. 44) as supplemented by the accompanying memorandum opinion is **ADOPTED** as the opinion of the court.

It is further **ORDERED** that the Clerk of Court mark this case **CLOSED**; and

It is further **ORDERED** that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

BY THE COURT:

Dated: August 19, 2015

/s/ Joy Flowers Conti  
Joy Flowers Conti  
Chief, United States District Judge

cc: all counsel of record via CM-ECF